

1       **A.**     You did.

2       **Q.**     Were you or Ms. Mullins, in the Summer of 2022, meeting  
3       on a regular basis with the WVOT IRM?

4       **A.**     Ms. Mullins was.

5       **Q.**     How often did Ms. Mullins meet?

6       **A.**     I think they have a monthly meeting scheduled.

7       **Q.**     In the Summer of 2022, when evidence preservation  
8       letters started coming from my office, did you or Ms.  
9       Mullins meet with the West Virginia Office of Technology to  
10      discuss the technological needs of the State of West  
11      Virginia relative to preserving evidence?

12      **A.**     No.

13      **Q.**     Was there an impediment or something that prevented you  
14      or Ms. Mullins from meeting with your IRM and the West  
15      Virginia Office of Technology in the Summer of 2022?

16      **A.**     No.

17      **Q.**     So, there's no reason, as you sit here today, that DHS  
18      and DCR would have been prevented or couldn't have met with  
19      the IRM and the Office of Technology to explain evidence  
20      preservation needs; is that a fair statement?

21      **A.**     That is.

22      **Q.**     Go to 6.1.2. One of the agency responsibilities under  
23      this policy authorizing agency user system access computer  
24      equipment or network accounts, correct?

25      **A.**     Correct.

1       **A.**     Correct.

2       **Q.**     Now, Mr. Douglas, as Chief of Staff, were you made  
3       aware of evidence preservation letters being sent out by my  
4       office in the months of June and July, 2022?

5       **A.**     Yes.

6       **Q.**     How were you made aware?

7       **A.**     I believe I was copied on an e-mail.

8       **Q.**     Let me know when you've reviewed that, sir.

9       **A.**     Okay.

10               MR. NEW:   And, Your Honor, for the record, this is  
11       Exhibit 3.   It's an e-mail string.

12               THE COURT:   You've already pre-marked these,  
13       right, with the court reporter?

14               MR. NEW:   Yes, Your Honor.

15               BY MR. NEW:

16       **Q.**     Sir, you see here that on Thursday, July the 7th, 2022  
17       at 10:43 a.m., Michael Francis forwards a letter to Jackie  
18       Binion, Marvin Plumley, Della Hall, Susan Harding and Harold  
19       Withrow.   Do you see that?

20       **A.**     I do.

21       **Q.**     And Jackie Binion was some type of regional manager  
22       over the Southern Regional Jail, correct?

23       **A.**     That's correct.

24       **Q.**     And Marvin Plumley was his superior within DCR?

25       **A.**     That's correct.

1       **Q.**    So, it's my fault the evidence wasn't preserved at the  
2       Southern Regional Jail?

3       **A.**    With respect to the video issue, yes.

4       **Q.**    Did you ever invoice me, say bring hard drives out?

5       **A.**    We were represented by counsel, so that was the limit  
6       of my involvement.

7       **Q.**    Fair to say that Mr. Murray isn't too technologically  
8       savvy?

9       **A.**    I don't know for sure, but you're probably right.

10      **Q.**    Did you task Mr. Murray or Anspach with the purchase of  
11      these four 18-terabyte hard drives and say get the money  
12      back from New?

13      **A.**    No, because your associate, Russell Williams, said that  
14      your office would buy them.

15      **Q.**    Okay. Do you know how much they cost at Staples or  
16      Amazon?

17      **A.**    No idea.

18      **Q.**    \$259. But that's just -- video is just one aspect of  
19      this preservation of evidence, isn't it, Mr. Sword?

20      **A.**    Yes, sir.

21      **Q.**    Let's talk about e-mail accounts. Did you play any  
22      role in attempting to assist DHS and DCR with the  
23      preservation of e-mail accounts that would be crucial to  
24      this litigation?

25      **A.**    Outside of providing them with your letters, no.

1 department that would maintain case files and that would be  
2 tracking litigation at that point.

3 **Q.** Didn't call for any meetings? You didn't say, Brad,  
4 let's get the Office of Technology together since you're the  
5 technology guy. You're the document retention, the agency  
6 management manager for my organization. It looks like  
7 there's a storm of litigation coming out of Beckley, West  
8 Virginia with Quantez Burks' death, Secretary Wriston's  
9 nephew's death, and now I've gotten 12 or 15 evidence  
10 preservation letters together. Nothing like that happened  
11 in the Summer of 2022, did it?

12 **A.** Other than making sure that Legal was aware, I did not  
13 gather a team.

14 **Q.** Did you follow up with Legal and say, hey, we've got a  
15 storm of litigation coming out of the Southern Regional Jail  
16 with the Burks death, the Wriston death, 13 deaths, and now  
17 they're griping about the conditions of the overcrowding,  
18 and maintenance, and water, and showers, and sinks. Let's  
19 -- let's get everybody together. Did you follow up with  
20 Legal about it?

21 **A.** As far as document retention goes?

22 **Q.** Yes, evidence preservation?

23 **A.** No. Not that I recall.

24 **Q.** Do you -- what you're telling this Court, understanding  
25 how crucial evidence preservation letter -- evidence

1       **Q.**     And why did you do that?

2       **A.**     Because that was the protocol. The protocol was that  
3     when you got something like that there was a group of  
4     individuals that you sent that to. So, I immediately send  
5     those when they're -- when they're given to me from the  
6     front office, I would scan them, e-mail them, send them up  
7     the chain.

8             And then we had daily meetings. I had daily meetings  
9     with my staff and we would discuss things like that. And I  
10    do remember, because I was getting ready to go on vacation.  
11    So, I was -- and that was basically the last I was going to  
12    do in the facility.

13            And I went over and spoke with Hal Withrow because Hal  
14    had taken over in Larry's office and basically Larry Warden  
15    was the one that took care of all the logs, videos to make  
16    sure that nothing happened to anything. And I went over to  
17    him and told him, I said, look, Buddy, I'm getting ready to  
18    leave. You don't get rid of anything.

19       **Q.**     Okay.

20       **A.**     And that was it.

21       **Q.**     You've heard some testimony here today about the  
22    deprovisioning of e-mail accounts. Do you know what that  
23    means?

24       **A.**     I do now. I -- you want my honest opinion?

25       **Q.**     Of course.

1 (No response)

2 THE COURT: Thank you, ma'am. You may step down.

3 Is this witness excused? Is this witness excused?

4 MR. NEW: Yes, Your Honor.

5 THE COURT: You're free to leave.

6 Come on up for me, please. Over here is a ramp.

7 There's the witness stand right there. Just watch your  
8 step.

9 If you would raise your right hand for me, ma'am.

10 **DANIELLE COX, PLAINTIFF WITNESS, SWORN WITNESS, SWORN**

11 THE COURT: Thank you.

12 If you would have a seat there. Say your name for the  
13 record. Pull that mic down toward you. Say your name for  
14 the record and spell it, please.

15 THE WITNESS: Danielle Cox, D-a-n-i-e-l-l-e C-o-x.

16 THE COURT: Thank you.

17 Mr. New?

18 **DIRECT EXAMINATION**

19 **BY MR. NEW:**

20 **Q.** Ms. Cox, how were you employed in the Summer of 2022?

21 **A.** I worked for the Office of Technology as the Chief  
22 Information Security Officer.

23 **Q.** Sounds like an important title. Can you tell the Court  
24 what you do as the Chief Information Security Officer of the  
25 West Virginia Office of Technology?

1     **A.**    I protect the systems and data for integrity,  
2     availability and confidentiality.

3     **Q.**    If a state entity like DCR or DHS wanted to preserve  
4     the e-mail accounts for employees who were leaving would you  
5     work with that agency or those agencies to accomplish that?

6     **A.**    Yes, if that was my office.

7     **Q.**    Is that fairly easily done?

8     **A.**    Yes.  It could -- they have a couple of ways to do it.

9     **Q.**    Tell the Court how easily it's done that if an agency  
10    like DHS or DCR wants the e-mail accounts for someone  
11    preserved for, let's say, for something like this case, how  
12    easily that gets done.

13    **A.**    That information would have to come up into whatever  
14    Legal Department and then they would reach out to my office  
15    via our standard form or potentially through a Customer  
16    Relationship Manager or our service desk.

17    **Q.**    Does it cost the State of West Virginia anything to  
18    preserve former employees' e-mail accounts?

19    **A.**    We do not currently bill for that, no.

20    **Q.**    June, July, August, 2022, did you or anyone in the West  
21    Virginia Office of Technology receive a copy of evidence  
22    preservation letters coming from my office regarding the  
23    Southern Regional Jail?

24    **A.**    No.

25    **Q.**    In the Summer of 2022, and I mean June, July, August,

1 2022, did Phil Sword, anyone with Legal, Brad Douglas, or  
2 anyone with DHS or DCR contact your office about the need to  
3 secure and preserve evidence for the Southern Regional Jail?

4 **A.** We don't have any record of that at that time, no.

5 **Q.** Now, in terms of technological support that the Office  
6 of Technology can offer to state agencies, I take it that,  
7 if requested, you all can scan in bulk documents, if needed,  
8 correct?

9 **A.** We wouldn't -- our office wouldn't scan in documents,  
10 no. We would -- we produce documents from the systems we  
11 maintain, but like physical paper, no.

12 **Q.** Yes.

13 **A.** Our office would not do that, no.

14 **Q.** All right. Your office maintains e-mail accounts,  
15 correct?

16 **A.** We're a service provider of e-mail, yes.

17 **Q.** And your office maintains Google Drives, correct?

18 **A.** Yes.

19 **Q.** What type of information is on the Google Drives?

20 **A.** Whatever the agencies put on there. We're a service  
21 provider. We don't know what type of data or the  
22 classification of their data.

23 **Q.** Summer of 2022, or even after, did anyone ever request  
24 the West Virginia Office of Technology to produce the Google  
25 Drives for the Southern Regional Jail or any of the people



1 that have worked there?

2 **A.** We had the request put in last month, in August, for  
3 this case, yes.

4 **Q.** You got a request for the first time to produce the  
5 Google Drives for the Southern Regional Jail in August of  
6 2023, correct?

7 **A.** Yes. Well, it's not for the jails. It was for a list  
8 of 30 users that were provided.

9 **Q.** And that was the first time that your office had been  
10 provided that?

11 **A.** Yes.

12 MR. NEW: I don't have anything further, Your  
13 Honor.

14 THE COURT: Go ahead.

15 **CROSS EXAMINATION**

16 **BY MR. MULLINS:**

17 **Q.** Just so we're clear here, the -- what you were provided  
18 back in August, and that's an estimate, of 2023, was that an  
19 ESI protocol that listed a whole bunch of different people's  
20 names and then a whole bunch of terms that you were supposed  
21 to search?

22 **A.** I don't know what it was. It was a two-page document.  
23 We don't get the actual documents. We have an internal  
24 form. I don't necessarily want our staff to have to  
25 interpret legal documents.